

### REMARKS

This application has been carefully reviewed in light of the Office Action dated October 5, 2005. Claims 109 to 113 are now pending in the application, with Claims 80 to 84, 86, 88, 90, 94, 96 and 105 to 108 having been cancelled herein, and Claims 109 to 113 having been added. Claims 109, 112 and 113 are the independent claims herein. Reconsideration and further examination are respectfully requested.

Claims 80 to 84, 86, 88, 90, 94, 96 and 105 to 108 have been rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 5,802,502 (Gell) in view of U.S. Patent No. 5,629,866 (Carrubba). Inasmuch as the rejected claims have been cancelled, the rejections are believed to be obviated. Nonetheless, reconsideration and withdrawal of the rejections are respectfully requested. Additionally, Applicants submit that newly-added Claims 109 to 113 are believed to be allowable over the art of record for at least the following reasons.

The present invention concerns processing of a request for transmission of an image. According to the invention, a request for the image is received, and upon receiving the request, a transmittable rate of a transmission path on which the image is to be transmitted is detected. Then, a resolution corresponding to the detected transmittable rate is selected and the image, having the selected resolution, is transmitted in the transmittable rate. Finally, a user is charged for transmission of the image having the selected resolution based on the transmittable rate.

Referring specifically to the claims, newly-added independent Claim 109 is directed to an image transmission apparatus for transmitting an image via a transmission path, comprising a reception unit adapted to receive a request for the image, a detection unit adapted to detect a transmittable rate of the transmission path, upon receiving the request by the reception unit, a selection unit adapted to select a resolution corresponding to the transmittable rate

detected by the detection unit, a transmission unit adapted to transmit the image, having the resolution selected by the selection unit, in the transmittable rate detected by the detection unit, and a charge unit adapted to charge a user for transmission of the image having the resolution selected by the selection unit based on the transmittable rate detected by the detection unit.

Newly-added independent Claims 112 and 113 are computer medium and method claims, respectively, that substantially correspond to Claim 109.

The art of record is not seen to disclose or to suggest the features of Claims 109, 112 and 113, and in particular, is not seen to disclose or to suggest at least the feature of detecting a transmittable rate of a transmission path for transmitting a requested image upon receiving the request for the image, selecting a resolution corresponding to the detected transmittable rate, and transmitting the image in the selected resolution based on the detected transmittable rate.

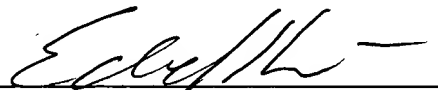
Gell is merely seen to disclose that a user submits a request for a service (e.g., a telecommunications request) to poll all service providers for price information. The service providers process the request and provide pricing information, and possibly other information such as the quality of service (e.g., satellite or land line use, bit error rate (BER), etc.) to the user. The user can then select which service provider they want to use for the service. Thus, Gell merely provides the user with information upon which they can then select a quality of service based on pricing before requesting the actual provision of the service. In contrast, in the present invention, the user submits the request for provision of the image, whereby a server detects a transmittable rate of the transmission path, selects a resolution of the image based on the detected transmittable rate, and transmits the image in the selected resolution. The foregoing features are not believed to be disclosed or suggested by Gell.

Carrubba is not seen to add anything to overcome the foregoing deficiencies of Gell. In this regard, Carrubba is merely seen to disclose a VOD system in which audio content includes a basic portion and a compliment portion. A provider transmits the basic portion to the user at no charge, and the user can pay a charge to receive the compliment portion. However, Carrubba is not seen to add anything that, when combined with Gell, would have resulted in the feature of detecting a transmittable rate of a transmission path for transmitting a requested image upon receiving the request for the image, selecting a resolution corresponding to the detected transmittable rate, and transmitting the image in the selected resolution based on the detected transmittable rate.

In view of the foregoing amendments and remarks, the entire application is believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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